

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, February 1, 2002

Division One

**A093795 -- The People v. Jamie Lavell Vance.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A096318 -- The People v. Eric Lane Byrd.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A097658 -- Clarence Spears v. The Superior Court of San Francisco County, People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Ruvolo, Acting P.J.

Division Five

**A095491 -- In re Wendell C., a Person Coming Under the Juvenile Court Law. The People v. Wendell C.**

All the orders appealed from by Wendell are affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, February 4, 2002

Division One

**A092979 -- The People v. Shayne Gaxiola.**

We find no arguable issues after a full review of the record and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A093737 -- In re Alexis M., a Person Coming Under the Juvenile Court Law. Department of Children and Family Services v. Sherrie M.**

Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on January 3, 2002, be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

Division Two

**A096926 -- American Dental Association v. The Superior Court of San Francisco County; Kids Against Pollution et al., R.P.I.**

By the Court: The petition for writ of mandate and the request for judicial notice are denied. Kline, P.J.

**A097586 -- Town of Ross v. The Superior Court of Marin County; Agnes Gabrielsen et al., R.P.I.**

By the Court: The petition for writ of prohibition/mandate/stay is denied. Kline, P.J.

Division Five

**A091674 -- The People v. Antoine M. Crecy.**

The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment to show the appellant was convicted on count 4 of robbery, and forward the corrected abstract of judgment to the Department of Corrections. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, February 4, 2002 (continued)

**A096027 -- Conservatorship of the Person of Tamara Mitchell. San Francisco County, et al., as Conservator v. Tamara Mitchell.**

By the Court: Respondent's motion to dismiss the appeal as moot is granted and the appeal is dismissed. Jones, P.J.

**A094884 -- Linda Schoonover v. Linda Skerbec.**

By the Court: Respondent's motion to dismiss the appeal, filed on January 17, 2002, is granted. The record indicates the trial court entered judgment in favor of respondent on November 30, 2000. Respondent, through counsel, served notice of entry of judgment on December 4, 2000. Under California Rules of Court, rule 2(a)(2), appellant had 60 days from that date to file her notice of appeal. The actual notice, filed on April 25, 2001, was filed far too late. Appellant seems to contend her notice of appeal was timely because the notice of entry was served on her counsel, not on her personally. However where, as here, a party is represented by counsel, "the service of papers, when required, must be upon the attorney instead of the party. . . ." (Code Civ. Proc., § 1015.) Jones, P.J.

Tuesday, February 5, 2002

Division Two

**A093715 -- The People v. William Hollingsworth.**

The judgment is reversed. Kline, P.J. We Concur: Haerle, J., Lambden, J.  
(Not for Publication.)

**A094036 -- The People v. David G. Hoover.**

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for  
Publication.)

**A092407 & A094012 -- Unit Process Company et al. v. Raychem  
Corporation et al.**

The portion of the judgment sustaining Raychem's and DESCO's  
demurrers as to the first, second, third, fourth, fifth and tenth causes of action is  
reversed. The portion of the judgment denying leave to amend the seventh and  
ninth causes of action as to Raychem is reversed. The judgment is otherwise  
affirmed. Appellants are awarded their costs of appeal. Lambden, J. We Concur:  
Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A081492 -- The People v. James Freddie Cavitt.**

**A088117 -- The People v. Robert Nathaniel Williams.**

The judgments are affirmed. Parrilli, J. We Concur: McGuinness, P.J.,  
Corrigan, J. (Not for Publication.)

Tuesday, February 5, 2002 (continued)

Division Four

**A093695 -- Jan Soehngen v. A.L. Susini.**

In short, we think the superior court judge was entirely correct when he stated, in reaction to the same arguments made before us by appellant Trust, that “to take a judgment creditor that steps forward and pays the taxes and saves the property and tell them that they couldn’t go out and do their best to find a way to collect that money is a preposterous, underline preposterous, result. It will not happen in my court unless an appellate court finds otherwise.” We do not. The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A095975 -- In re Matthew M., a Person Coming Under the Juvenile Court Law. The People v. Matthew M.**

The order adjudicating appellant a ward of the court and placing him in a group home is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Wednesday, February 6, 2002

Division One

**A093082 -- Griffin Dix et al. v. Beretta U.S.A. Corp.**

The order granting a new trial is modified to grant a new trial only on the plaintiffs claim of design defect and not on their claim of failure to warn. As so modified, the order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A096714 -- London Market Insurers v. the Superior Court of the City and County of San Francisco; Kaiser Aluminum and Chemical Corporation, R.P.I.**

The order to show cause is issued on December 14, 2001, is discharged. The petition for writ of mandate is denied. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A091306 -- Dale McNally v. Alaska Gasoline et al.**

The judgment and order for fees are affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A093277 -- Bodrell Joer'dan Smith v. Hopland Band of Pomo Indians, et al.**

Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on January 9, 2002, be modified as follows: (See order.) There is no change in the judgment. Respondents' petition for rehearing is denied. Stein, Acting P.J. (Certified for Publication.)

**A092749 -- Milea Tompkins v. California Insurance Group.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A094026 -- Mark Watson et al. v. Financial Pacific Insurance Company.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Wednesday, February 6, 2002 (continued)

Division Five

**A093689 -- Sofia U. New v. San Francisco Unified School District.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.  
(Not for Publication.)

**A095718 -- The People v. Allan Craig Tirk.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A094266 -- The People v. Matthew Donald Wells.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, February 7, 2002

Division One

**A094491 -- In re Aaron G., a Person Coming Under the Juvenile Court Law. The People v. Aaron G.**

The judgment and order are affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A095233 -- Elayne Hermann v. Charles Stratton, D.D.S. Inc.**

The order granting summary adjudication is reversed and the matter is remanded for further proceedings on the first, second and third causes of action. In all other respects, the judgment is affirmed. Appellant is awarded costs of appeal. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A097680 -- Jehad Baqleh v. The Superior Court of San Francisco County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. We note that the superior court is bound by the rule of immunity set forth in *People v. Arcega* (1982) 32 Cal.3d 504 and *People v. Weaver* (2001) 26 Cal.4th 876. Kline, P.J.

**A090508 -- The People v. Jesus Barajas.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A097696 -- Dennis Gardner v. The Superior Court of Solano County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.



Thursday, February 7, 2002 (continued)

Division Three

**A092799 -- The People v. Lester Leslie Tims.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A095195 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company; Eun Ja Song, R.P.I.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A094682 -- Original Joe's Inc. v. Golden Eagle Insurance Corporation.**

The judgment is reversed. Sepulveda, J. We Concur: Kay, P.J., Marchiano, J.\* (Not for Publication.)

\*Presiding Justice of Division One of the First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A093509 -- Pacific Gas & Electric Co. v. The Superior Court of Sonoma County; John Emery et al., R.P.I.**

Let a peremptory writ of mandate issue directing the Superior Court of California, County of Solano, to set aside and vacate its order filed on or about December 11, 2000, in the case of *John and Deborah May Emery and Jeffrey Caldwell v. Pacific Gas & Electric Company et alia* (Super. Ct. Sonoma County, 2000, No. SCV 223580) denying defendant Pacific Gas & Electric Company's demurrer to and motion to strike the fourth cause of action of plaintiffs' first amended complaint and to enter a new order sustaining the demurrer to and granting the motion to strike the fourth cause of action. The parties shall bear their own costs of this proceeding. (California Rules of Court, rule 56.4.) This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

Thursday, February 7, 2002 (continued)

Division Five

**A093447 -- Sandy Baratta v. Oracle Corporation.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.  
(Not for Publication.)

**A094609 -- Kimberly Diaz v. Larry Gragg et al.**

The attorney fee award to plaintiff is reversed and the matter remanded to the trial court for a determination of the amount of reasonable attorney fees due her under section 1717, including attorney fees on appeal. The denial of attorney fees and costs to C.J. is affirmed. Costs on appeal are awarded to plaintiff. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A091647 -- The People v. David August Siebels.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

Friday, February 8, 2002

Division One

**A091663 -- The People v. Carlos Dejesus Gabarrete.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

**A096110 -- The People v. Chaka Ali Grayson.**

The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J.  
(Not for Publication.)

**A093355 -- Katrina R. LaChapelle v. Toyota Motor Corporation, et al.**

**A095611 -- Katrina R. LaChapelle v. Toyota Motor Corporation, et al.**

By the Court: Appellant's motion to consolidate the above-reverenced appeals is granted for purposes of oral argument and decision. Both case numbers shall appear on all further documents filed in this Court. Appellant's motion to augment the record, filed January 7, 2002, is granted and the record is hereby deemed augmented to include the documents attached to the motion. Marchiano, P.J.

**A094183, A095049 -- In re Robert P., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Social Services v. Gwendolyn P.**

Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on January 10, 2002, be modified as follows: (See order) There is no change in the judgment. Appellant's petition for rehearing is denied. Stein, Acting P.J.

**A094210 -- The People v. Rita Janel Speech.**

The court's comments reveal its determination that rule 4.413(c)(2)(ii) did not apply regardless of appellant's drug addiction, whatever its cause, because there was no "high likelihood" that she would respond favorably to substance abuse treatment if placed on probation. The record amply supports that determination, and the denial of probation was not an abuse of discretion. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Friday, February 8, 2002 (continued)

**A090904 -- The People v. Harry Daniel Willett.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A095581 -- The People v. Daniel Wayne Williamson.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, J., Swager, J. (Not for Publication.)

Division Two

**A097112 -- In re Steven G., a Person Coming Under the Juvenile Court Law. Superior Court v. San Mateo County Children and Family Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is presently set for February 21, 2002, our decision on the writ petition is final as to this court immediately. (Rule 24(d).) Kline, P.J. We Concur: Haerle, J., Lambden, J.

**A094223 -- Robert Kyle v. Caroline Morgan.**

The judgment is reversed and the matter remanded for proceedings consistent with the views expressed herein. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A093396 -- The People v. Stella Salazar Murrietta.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Friday, February 8, 2002 (continued)

Division Three

**A093146/A093390 -- Mary Freeze v. Lost Isle Partners.**

By the Court: The written opinion which was filed on January 9, 2002, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. McGuiness, P.J.

Division Four

**A096368 -- The People v. Barry Bullard.**

The order revoking and then reinstating probation under the modified terms is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A094704 -- The People v. Johnnie Ann Barnes.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A092494 -- The People v. Ira Carl King.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Monday, February 11, 2002

Division Two

**A095498 -- In re Jennifer B., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Health & Social Services v. Sandra B. et al.**

The dispositional order of the court is vacated and the matter is remanded to the juvenile court with directions to order compliance with the notice provisions of ICWA. If, after proper inquiry and notice, no response is received from a tribe indicating the minor is an Indian child, the previous dispositional findings and dispositional order shall be reinstated. If a tribe determines that the minor is an Indian child, or if other information is presented to the juvenile court that suggest the minor is an Indian child as defined by ICWA, the juvenile court is ordered to conduct a new dispositional hearing in conformity with all provisions of ICWA. In all other respects, the orders of the juvenile court are affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A095380 -- City of American Canyon v. Robert L. Couch, Jr. et al.**

The order denying the motion for litigation expenses is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Five

**A095406 -- In re Ernesto H., a Person Coming Under the Juvenile Court Law. The People v. Ernesto H.**

The dispositional order is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, February 13, 2002

Division One

**A095048 -- In re Jessica B., a Person Coming Under the Juvenile Court Law. The People v. Jessica B.**

Order Modifying Opinion. The Court. It is ordered that the opinion filed herein on January 31, 2002, be modified in the following particulars: (See order.) There is no change in the judgment. Swager, Acting P.J. (Not for Publication.)

**A094943 -- The People v. Eric Carter.**

The order dismissing the information is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A095405 -- The People v. Jose Mendoza Castillo.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A096531 -- Tim Taggart v. Janelle Winters et al.**

The court: The appeal is dismissed. Marchiano, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Wednesday, February 13, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A094392      In re the Estate of Rufina Abellan, Deceased.  
Rizalina Abellan, et al.  
v.  
Roseller Abellan.  
Cause called and argued by Rizalina Abellan, appellant in propria persona and Gary Lieberman, counsel for respondent. Cause ordered submitted.

A094871      In re the Marriage of Eric and Joni Trager.  
Joni Trager  
v.  
Eric Trager  
Cause called and argued by Bret Campoy, counsel for appellant and Deborah Hewitt, counsel for respondent. Cause ordered submitted.

A093944      Insurance Commissioner of the State of California  
v.  
Golden Eagle Insurance Company  
Pardee Constructiuon Company  
Cause called and argued by Timothy Gonzales, counsel for appellant and Greg Ryan, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P J., Lambden, J., Ruvolo, J., Officer Tam, and I. Santos, Deputy Clerk.

A095736      The People,  
v.  
Lanyard Berry.



Cause called and argued by Ronald Boyer, counsel for appellant, and Ryan McCarroll, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A094381     Allen F. Ehle,  
                 v.  
                 Philip F. Spalding et al.  
Cause called and argued by Allen Ehle, in propria persona, and Katharine Demgen and Christopher Costin, counsels for respondents. Cause ordered submitted.

A090449 &     Marina Lui et al.,  
A091911       v.  
                 California Pacific Medical Center.  
Cause called and argued by Robert Chin, counsel for appellant, and Holly Paul and Renee Richards, counsels for respondents. Cause ordered submitted.

Court recessed until Thursday, February 14, 2002 at 9:30 a.m.

Wednesday, February 13, 2002 (continued)

Division Four

**A093798 -- The People v. Jack David Pollack.**

The judgment of conviction is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Thursday, February 14, 2002

Division One

**A097638 -- Berg & Parker, LLP v. Information Systems & Networks Corp.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 01/30/02, the appeal is dismissed. Marchiano, P.J.

**A097031 -- Margaret Rose Gregory v. Albertson's, Inc.**

**A097620 -- Margaret Rose Gregory v. Ires, Inc.**

By the Court: Appellant's motion to consolidate the above-referenced appeals is granted for purposes of briefing, oral argument and decision. Both case numbers shall appear on all further documents filed in this Court. Appellant's consolidated opening brief shall be due 30 days from the filing of the record in A097620. Marchiano, P.J.

**A092651 -- Vacaville Quail Run v. Gable Plastics, Inc.**

By the Court: Since this court's 1/30/02 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Marchiano, P.J.

Division Two

**A094690 -- The People v. Enrique Tadeo Areas.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A095385 -- The People v. Steven Austin Gillotti.**

The order revoking appellant's probation and executing the previously imposed prison sentence is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Thursday, February 14, 2002 (continued)

**A097731 -- The Hearst Corporation et al. v. The Superior Court of San Francisco County; Robert Noel And Marjorie Knoller, R.P.I.**

By the Court: The petition for writ of mandate/certiorari/prohibition is denied. Kline, P.J.

**A095179 -- The People v. Francisco Maldonado.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, February 14, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Ruvolo, J., Officer Alldredge and I. Santos, Deputy Clerk.

A089198     The People,  
              v.  
              Nicole Esther Bradley.  
Cause called and argued by Dennis Riordan, counsel for appellant, and Rene Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A095016     California Apartment Association et al.,  
              v.  
              City of Fremont.  
Cause called and argued by Stephen Hunter, counsel for appellant, and Gary Gans and Janet Coleson, counsels for respondent. Cause ordered submitted.

A094141     Fedco Construction, Inc.,  
              v.  
              Japan Senior Citizens Welfare Organization.  
Cause called and argued by Joseph Piasta, counsel for appellant, and Thomas Arthur, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Ruvolo leaves the bench and Justice Lambden joins the bench for the remainder of the calendar.

A095267     In re Nicholas H.  
              Social Services Agency,  
              v.  
              Kimberly H.  
Cause called and argued by Janet Saalfield (telephonically), counsel for appellant, and Anthony Scarr, Deputy County Counsel, counsel for respondent and Frank Free, counsel for father Thomas G. Cause ordered

submitted.

**COURT ADJORNED.**

Thursday, February 14, 2002 (continued)

Division Four

**A094441 -- The People v. David Arlen Ackelbein.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A094786 -- In re Heather W., a Person Coming Under the Juvenile Court Law. Lake County Social Services Agency v. Johnny W.**

The order terminating Johnny W.'s parental rights is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A093994 -- The People v. Anthony J. Hales.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A092772 -- Storek & Storek, Inc., et al. v. Citicorp Real Estate, Inc.**

**A093724 -- Storek & Storek, Inc., et al. v. Citicorp Real Estate, Inc.**

The judgment on the fraud causes of action is reversed, and the trial court is directed to enter judgment in favor of Citicorp on those causes of action. The judgment on the cause of action for breach of the implied covenant of good faith is affirmed. The order denying attorney fees is reversed, and the matter is remanded to the trial court for an award of plaintiffs' attorney fees incurred in the action on the contract. Each party shall bear its own costs on appeal. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A095271 -- In re Dwayne R., a Person Coming Under the Juvenile Court Law. The People v. Dwayne R.**

The disposition is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, February 15, 2002

Division One

**A089166 -- The People v. Kevin Tyrone Demings et al.**

Any prejudice associated with admission of Demings's statements was not entirely extraneous to their probative value. The purpose of this evidence was not to negatively portray appellants or to prove their criminal disposition. It was primarily damaging as it demonstrated motive and lack of credibility. We agree with the trial court's assessment that the probative value of the evidence was not outweighed by the emotional bias or other prejudice it may have evoked against appellants. We conclude that the trial court did not abuse its discretion by admitting the evidence. (*People v. Humiston, supra*, 20 Cal.App.4th at pp. 479-480.) Accordingly, the judgments are affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A097468 -- In re Marriage of Orhan and Aylin Lynn Tolu.**

**Aylin Lynn Tolu v. Orhan Tolu.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 01/17/02, the appeal is dismissed. Marchiano, P.J.

Division Three

**A087913 -- The People v. Bernard King.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A094480 -- The People v. Paris Vines.**

The judgment and sentence are affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)



Friday, February 15, 2002 (continued)

**A093704 -- The People v. Francisco Javier Zepeda.**

Accordingly, the trial court's denial of appellant's motion to suppress is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A095663 -- The People v. Dino Angelo Carlini.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A094285 -- The People v. Kevin D. Flowers.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A094717, A095473 -- In re the Marriage of Julianne and Tibor Major. Julianne Major v. Tibor Major.**

We reverse the support order and remand for further proceedings pursuant to this opinion (A094717). All other orders are affirmed. Father's motion for sanctions for bringing a frivolous appeal is denied (A095473). Reardon, J. I Concur: Kay, P.J. I concur in the judgment: Sepulveda, J. (Not for Publication.)

Division Five

**A094340 -- The People v. Richard Francis Wood.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, February 19, 2002

Division Two

**A097659 -- In re Roberto Escalante Garay, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A097790 -- In re Wiley Hayes, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A097564 -- Johann Sebastian Schmidt v. The Superior Court of Mendocino County; People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition/mandate/stay is denied. Haerle, Acting P.J.

**A093459 -- The People v. Samuel Joseph Yopez.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvo, J. (Not for Publication.)

Division Three

**A095499 -- In re Craig H., a Person Coming Under the Juvenile Court Law. The People v. Craig H.**

The dispositional order of the juvenile court, committing appellant to CYA, is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

Tuesday, February 19, 2002 (continued)

Division Four

**A093591 -- BTS, Inc. v. Sonitrol Corporation et al.**

The order granting defendants' motion for summary judgment is modified by adding this provision: "Plaintiff shall recover the sum of \$500.00 from defendants Sonitrol Corporation of Contra Costa and Kimberlite Corporation." As so modified, the order/judgment is reversed. All other purported appeals are dismissed. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A092754, A093319 -- W. Greg Wierzbowski v. East Bay Medical Imaging Association et al.**

The purported appeal from the order compelling arbitration is dismissed. The judgment, and the order for costs and fees, is affirmed. Defendants shall recover their costs of appeal, including attorney fees incurred on this appeal. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A094955 -- The People v. Paul Warren Holladay.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, February 20, 2002

Division One

**A097172 -- Janet A. v. The Superior Court of San Francisco County;  
San Francisco County Department of Human Services et al.**

The petition for extraordinary writ is denied on the merits. The section 366.26 hearing is set for April 10, 2002. Therefore, this opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A093283 -- The People v. Robert Allen Fackrell.**

**A095848 -- In re Fackrell on Habeas Corpus.**

The judgment is affirmed and Fackrell's petition for a writ of habeas corpus is denied. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A094873 -- The People v. John Richard Salo, Jr.**

The order revoking probation and imposing appellant's previously stayed prison term is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A094494 -- The People v. Tamar Pierre Anderson.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A095911 -- The People v. Eric Dayton DeRouen.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, February 20, 2002 (continued)

**A093334 -- Anthony Hines v. Thyssen Elevator Corporation.**

The judgment is affirmed. Respondent shall recover its costs on appeal.  
Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

**A094820 -- In re Providian Credit Card Cases.**

The order is affirmed. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

Division Five

**A092944 -- In re the Marriage of Mark S. and Yvonne L. Tomko.  
Mark S. Tomko v. Yvonne L. Tomko.**

The order is affirmed, and the matter is remanded with directions to clarify the residential timeshare schedule. Mother to recover costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, February 21, 2002

Division One

**A095041 -- The People v. Francisco Valdivia.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A094755 -- Estate of Arthur Patrick Ford, Deceased.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

**A094951 -- The People v. Charles Edward Lewis, Jr.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A097730 -- Valley Surgical Center et al. v. The Superior Court of Alameda County; Mannie Joel, M.D. et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

Division Three

**A097761 -- Ronald Ardizzone v. The Superior Court of Napa County; Janice Ardizzone, R.P.I.**

By the Court: The petition for a writ of mandate and/or prohibition is denied. (Corrigan, J. & Parrilli, J. participating.) McGuinness, P.J.

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Thursday, February 21, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., and Richard H. Sandvik, Deputy Clerk.

A095458 Marco Radomile et al.

v.

Marriott International, Inc.

Cause called and argued by Richard E. Wilson, counsel for appellant, and by Donald T. Ramsey, counsel for respondent. Cause ordered submitted.

A094521 Big Ling Lau

v.

Robert P. Chan et al.

Cause called and argued by Big Ling Lau, appellant, in pro per, and by Robert Y.P. Chan, respondent, in pro per. Cause ordered submitted.

A095914 Stephen J. Smith, Director of Industrial  
Relations et al.

v.

Workers' Compensation Appeals Board  
Joshua Walker et al.

Cause called and argued by Vanessa Holton, counsel for petitioner, and by Regina A. McClellan, counsel for respondents. Cause ordered submitted.

A093405 Mark A. Ross

v.

University of California San Francisco Medical Center

Cause called and argued by Brian L. Burchett, counsel for appellant, and by Peter Dixon, counsel for respondent. Cause ordered submitted.

Court adjourned at 10:30 a.m.

Friday, February 22, 2002

Division One

**A093751 -- The People v. Bobby Brown.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A096348 -- The People v. Mark Wayne Green, Jr.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A093973 -- David Aviel v. Michael S. Sorgen.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A093450 & A094395 -- Robert A. Borissoff, as Executor etc. v. Taylor & Faust et al.**

The judgment and the costs award are affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Certified for Partial Publication.)

**A097645 -- Alpha Sigma Chapter et al. v. The Superior Court of Alameda County; Douglas A. Wright, R.P.I.**

By the Court: The petition for writ of mandate is denied. (Haerle, J. would grant petition; see dissent.) Kline, P.J.

Division Three

**A094716 -- In re Lataya R., a Person Coming Under the Juvenile Court Law. The People v. Lataya R.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)



Friday, February 22, 2002 (continued)

**A092007 -- The People v. William Dean Usher.**

The abstract of judgment is amended to reflect actual credit for time served of 636 days, conduct credit of 318 days, and total credits of 954 days. The judgment is otherwise affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Five

**A095204 -- In re Nicholas S., a Person Coming Under the Juvenile Court Law. The People v. Nicholas S.**

The order declaring defendant a ward of the court is affirmed. Gemello, J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Friday, February 22, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A093549 Robert M. Likes

v.

James P. Begansky

Cause called and argued by Thomas J. Klitgaard, counsel for appellant, and by David R. Packard, Judith A. Holiber and Charles M. Riffle, counsel for respondent. Cause ordered submitted.

A093662 In re the Conservatorship of the Estate of Robert M. Likes.

Robert M. Likes

v.

James P. Begansky

Cause called and argued by Thomas J. Klitgaard, counsel for appellant, and by David R. Packard and Charles M. Riffle, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Stevens took her place for the remainder of the calendar.

A095219 John R. Ulrich

v.

City and County of San Francisco et al.

Cause called and argued by Edith J. Benay, counsel for appellant and by Jonathan U. Lee, counsel for respondent. Cause ordered submitted.

A093123 Monty Williams

v.

Ruben Newton et al.

Cause called and argued by Robert E. White, counsel for appellant and by Matthew Webb, counsel for respondent. Cause ordered submitted.

A093723 Mohammad A. Mashhoon

v.

City of Oakland

Cause called and argued by Julie A. Jones, counsel for appellant and by David A. Self, counsel for respondent. Cause ordered submitted.

A093819 The People

v.

Rachel Kristine

Cause called and argued by Ann C. Moorman, counsel for appellant and by Matthew P. Boyle, counsel for respondent. Cause ordered submitted.

A094062 Jennifer Selig

v.

Infinity Broadcasting Corporation

Cause called and argued by Frederick F. Mumm, counsel for appellant and by Christopher B. Dolan, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:59 a.m.

Monday, February 25, 2002

Division Two

**A097833 -- In re Charles Edwin Bolden, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Three

**A093573 -- The People v. Bobby Tyson Arnold.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A089745 -- The People v. Anthony Louis Barbarin, et al.**

The judgment is affirmed as to both appellants. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A092459 -- The People v. Eric C. Gentry.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A094097 -- Michael Grube v. Oksana Okopnyi, et al.**

The order is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A090519 -- The People v. Carl Holland.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A094708 -- The People v. Jesse James.**

By the Court: Since this court's January 31, 2002 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.

Monday, February 25, 2002 (continued)

Division Four

**A092053 -- The People v. Shawn Graham.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A090327 -- Steven John Yates et al. v. Tri Commercial Real Estate Services, Inc., et al.**

The judgment for respondents on the causes of action for breach of fiduciary duty and negligent misrepresentation is reversed; the balance of the judgment is affirmed. The parties will bear their own costs on appeal. Kline, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A094521 -- Big Ling Lau v. Law Offices of Robert Y.P. Chan.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A097270 -- Mario M. v. The Superior Court of Sonoma County; Sonoma County Department of Social Services, R.P.I.**

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 34 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) Because the section 366.26 hearing is set for March 20, 2002, our decision is final as to this court immediately. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, February 26, 2002

Division One

**A092356 -- HIH Marine Insurance Services, Inc. v. Gateway Freight Services.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Certified for Publication.)

Division Two

**A094983 -- The People v. Samuel Gill Garcia.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A093294 -- John E. Hallgren et al. v. Anthony G. Meyn et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A097364 -- Jerry Mark Stewart v. The Superior Court of Mendocino County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Division Three

**A092744 -- In re the Marriage of Marisa Christie and Alfred Chong.**

Boyd failed to establish its right to mandatory or permissive intervention in the dissolution action between Christie and Chong. We therefore affirm the trial court's denial of Boyd's motion to intervene. Respondent Christie has been dismissed from the action, and respondent Chong filed no responsive papers. Accordingly, neither shall recover their costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Tuesday, February 26, 2002 (continued)

**A094072 -- In re Verna E., a Person Coming Under the Juvenile Court Law. The People v. Verna E.**

The order committing Verna to the CYA is reversed. The matter is remanded so that the probation department may, if it so chooses, file an amended supplemental petition on which the court shall conduct a new jurisdictional hearing in compliance with former section 777, or proceed otherwise in accordance with law. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A093484 -- In re Shayna K., a Person Coming Under the Juvenile Court Law. The People v. Shayna K.**

The juvenile court's order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A096452 -- Carleen Olmstead et al. v. Arthur J. Gallagher & Company, et al.**

The appeal is dismissed. Respondents shall recover their costs. Respondents shall also recover \$555.00 in sanctions, payable by counsel for appellants. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A094639 -- In re Jose and Sergio Q., Persons Coming Under the Juvenile Court Law. Sonoma County Social Services Agency v. Leticia S.**

The order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A094852 -- The People v. Ralph Urbancic.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Tuesday, February 26, 2002 (continued)

Division Four

**A092582 -- The People v. Fernando Tapia Bravo.**

The implied findings of true on the prior conviction enhancements are reversed. The sentence is vacated and the matter is remanded for retrial or admission of the prior convictions and for resentencing in accordance with the views expressed in this opinion. The judgment is otherwise affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A094339 -- The People v. Bernardo Cruz Pancho.**

The order of probation is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 26, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Reardon, J.; and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Tony Tam, Bailiff.

- A095128      Victoria Reed  
                 v.  
                 DHX, Inc. et al.  
Cause called. In pro per appellant Victoria Reed argued. Deborah H. Petitio argued for respondents. Cause submitted.
- A093061      Lockheed Martin et al.  
                 v.  
                 Workers' Compensation Appeals Board  
                 General Electric et al.  
Cause called. Ellen Langille argued for petitioners Lockheed Martin et al. Richard M. Jacobsmeyer argued for the California Workers Compensation Institute, amicus in support of petitioners.
- Leon Reich argued for respondents. Joseph V. Capurro argued for the California Applicants Attorney Association, amicus for respondents. David Bryan Leonard argued for the California Society of Industrial Medicine and Surgery, Inc., amicus for respondents. Cause submitted.
- A093975      Nancie Williams  
                 v.  
                 Weyerhaeuser Company  
                 Julie Dvorsky et al.  
Cause called. Richard H. Rosenthal argued for appellants Dvorsky et al. Elizabeth Cabraser and Thomas L. Boeder argued for respondents. Cause submitted.

A094879      Elegant Entertainment Limousine, Inc.

v.

E.S.I. Bus Sales et al.

Cause called. Zak Best argued for appellant Elegant. Pamela F. Ellman argued for respondents. Cause submitted.

The Court recessed at 11:35 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 26, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

- A089492 William West  
v.  
Bechtel Corporation  
Cause called. Thomas M. McNerny argued for appellant Bechtel. Ruel Walker argued for respondent. Cause submitted.
- A091634 Jeffrey A. Harris  
v.  
California Department of Corrections et al.  
Cause called. Kimball Sargeant argued for appellant Harris. Robert Andrew Harkness and James F. Curran argued for respondents. Cause submitted.
- A094517 Ronald R. Rago  
v.  
Brinker International, Inc.  
Cause called. John H. Patton argued for appellant Rago. Ted C. Lindquist, III argued for respondent. Cause submitted.
- A086742 Leon I. Baumgarten  
A087045 v.  
A089590 Sheron Sugarman et al.  
Cause called. Christopher Sheron argued for litigants Sheron Sugarman et al. Paul Thorndall argued for litigant Baumgarten. Cause submitted.

The Court adjourned at 3:43 p.m.

Tuesday, February 26, 2002 (continued)

Division Five

**A093930 -- The People v. Fabian Mills.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.  
(Not for Publication.)

**A095080 -- In re Jared O., a Person Coming Under the Juvenile Court Law. The People v. Jared O.**

The order of the juvenile court is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, February 27, 2002

Division One

**A094129, A094477 -- The People v. Dennis Armstrong**

In A094129, the judgment of conviction is affirmed. In A094477, the order striking the prior conviction, and resulting sentence of 31 years 4 months, are affirmed. Marchiano, J. I Concur: Swager, J. (See Concurring and dissenting opinion by Stein, Acting P.J.) (Not for Publication.)

**A097415 -- In re Guardianship of Dennis C., a Minor. Kimberly Alexander v. Dennis A. Cortes, M.D.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 1-29-02, the appeal is dismissed. Marchiano, P.J.

**A097521 -- University of California Board of Regents v. Harry J. Williby.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 1-22-02, the appeal is dismissed. Marchiano, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, February 27, 2002

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; N. Millner, Deputy Clerk, and R. Chavez, court security.

- A095143     The People,  
              v.  
              Nathan Kemp.  
Cause called and argued by Steven S. Lubliner, counsel for appellant, and Thomas A. Brady, counsel for respondent. Cause ordered submitted.
- A094880     In re Estate of Ruby Ann Inglemon.  
              Ronald Herd, Sr.,  
              v.  
              Leroy Inglemon, et al.  
Cause called and argued by Ronald Herd, Sr., appellant in pro per, and Kimberly A. Fanady, counsel for respondents. Cause ordered submitted.
- A091958/  
A092102     Sharon McKinney, et al.,  
              v.  
              California Portland Cement Company.
- Sharon McKinney, et al.,  
              v.  
              Amcord, Inc.  
Cause called and argued by Barbara Adams, counsel for appellant Amcord, Inc.; Karl Kime, counsel for appellant California Portland Cement Robert C. Gebhardt; and Lloyd Leroy, counsel for respondent McKinney. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, February 27, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Jones, J., sitting on assignment from Division 5; B. Robbins, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

A090334/  
A092497

Alan D. Liker,  
v.  
Angel View Crippled Children's Foundation, et al.

Alan D. Liker,  
v.  
Leontina Amaral, et al.

Cause called and argued by Hillel Chodos, counsel for appellant, and Paul Fogel, counsel for respondents Angel View; and Charles Oakley, counsel for respondents Amaral. Cause ordered submitted.

At this point in the proceedings, Justice Jones left the bench and Presiding Justice Marchiano joined the bench and presided over the remainder of the session.

A093865

The People,  
v.  
Kanuri Qawi.

Cause called and argued by Renee Torres, counsel for appellant, and David M. Baskind, counsel for respondent. Cause ordered submitted.

A095641

Haydee C. Javier,  
v  
Apkar Systems, Inc., et al.

Cause called and argued by Haydee Javier, appellant in pro per, and William John Bruegmann, counsel for respondent Ready Mortgage; William S. Hochman, counsel for respondent Whitermore; and William A. O'Connell, via teleconference, counsel for respondent Warwick. Cause ordered submitted.

A086440/ In re the Marriage of Garzoli.  
A090295 Elizabeth B. Garzoli,  
v.  
John H. Garzoli.  
Cause called and argued by Alvin H. Goldstein, counsel for appellant, and  
Paige Leslie Wickland, counsel for respondents. Cause ordered submitted.

A094469 Kenneth R. Mathews,  
v.  
Betty J. Squires.  
Cause called and argued by Kenneth R. Mathews, appellant in pro per, and  
Bradford C. Floyd, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, February 28, 2002 at 9:00 a.m.



Wednesday, February 27, 2002 (continued)

Division Two

**A094512 -- The People v. John Franklin Crose.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A093292 -- The People v. Isaiah Laughlin.**

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A095206 -- In re Raphael P. III, a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Raphael P.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

**A095403 -- In re Michael S., a Person Coming Under the Juvenile Court Law. The People v. Michael S.**

The order adjudicating appellant a continued ward of the court and placing him outside the parental home is affirmed. The matter is remanded for the trial court to make an explicit determination whether appellant's prior sustained offense, vandalism (Pen. Code, § 594, subd. (a)), is a felony or a misdemeanor (§ 702; *In re Manzy W.*, *supra*, 14 Cal.4th 1199, 1204.) Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

**A095110 -- The People v. Daryl Keith Bouie.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A093802 -- The People v. Allen James Bullock.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Wednesday, February 27, 2002 (continued)

**A095099 -- The People v. Rodney Makia Canada.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A096510 -- The People v. Edward Ruben Coffey.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A095875 -- In re Daniel L., a Person Coming Under the Juvenile Court Law. The People v. Daniel L.**

The jurisdictional order in which the juvenile court found true an allegation that appellant committed theft by embezzlement is reversed. Accordingly, the dispositional order that followed that finding must be, and hereby is, reversed, as well. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, February 28, 2002

Division Two

**A095360 -- The People v. Bobbie Ray Alexander.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A095312 -- The People v. Jonas Gediminas Puceta.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A094158 -- In re Brittany K., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Dianne C. et al.**

The decision and orders of the juvenile court appealed from are affirmed in their entirety. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Partial Publication.)

Division Four

**A094694 -- In re Tyrena H., et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Carmen T.**

The orders are affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A093212 -- The People v. Anselmo Medina.**

The order of probation is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A094517 -- Ronald R. Rago v. Brinker International, Inc.**

The judgment is affirmed. Reardon, J. I Concur: Sepulveda, J., I concur in judgment: Kay, P.J. (Not for Publication.)

Thursday, February 28, 2002 (continued)

**A095128 -- Victoria Reed v. DHX, Inc., et al.**

Appellant has not furnished a legal argument establishing error. The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A093963 -- The People v. Braulio Lopez Alvarez.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A094733 -- Harold Hanerfeld v. City of Berkeley Rent Stabilization Board.**

The judgment granting the petition for a writ of mandamus is affirmed. Jones, P.J. We Concur: Stevens, J., Swager, J.\* (Not for Publication.)

\*Associate Justice of the Court of Appeal, First Appellate District, Division One, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A095458 -- Marco Radomile et al. v. Marriott International, Inc.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A095914 -- Stephen J. Smith, as Director of Industrial Relations, etc. v. Workers' Compensation Appeals Board and J.R.W. Contemporary, Inc.**

The Board's award to the Walkers is vacated, and the Board is directed on remand to make an appropriate award to the DIR instead. Stevens, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication.)